

HOUSE BILL NO. 127

INTRODUCED BY D. WANZENRIED

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ISSUANCE OF GASOLINE AND SPECIAL FUEL DISTRIBUTOR LICENSES; REQUIRING A MINIMUM SECURITY IN THE AMOUNT OF \$25,000 FROM LICENSED DISTRIBUTORS WHO EXPORT OR IMPORT GASOLINE OR SPECIAL FUEL; PROVIDING FOR DENIAL OR REVOCATION OF A GASOLINE OR SPECIAL FUEL DISTRIBUTOR LICENSE; AMENDING SECTIONS 15-70-202 AND 15-70-341, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-70-202, MCA, is amended to read:

"15-70-202. License and security of gasoline distributors -- denial or revocation of license. (1) (a)

~~All~~ Each gasoline distributor distributor, including ~~exporters~~ an exporter and importer, as those terms are defined in 15-70-201, ~~and a person who imports, as defined in 15-70-201,~~ prior to the commencement of doing business, shall file:

(i) an application for a license with the department ~~of transportation~~ on forms prescribed and furnished by the department setting forth the information ~~as that~~ that may be requested by the department; and

(ii) security with the department in an amount to be determined by the department.

~~(b) (i) The~~ Except as provided in subsection (1)(b)(ii), the required amount of security may not exceed twice the estimated amount of gasoline taxes that the distributor will pay to this state each month.

~~(ii) The~~ The minimum required security for a distributor who imports or exports gasoline, or both, is \$25,000.

~~(b)(c)~~ Upon approval of the application, the department shall issue to the distributor a nonassignable license that is in force until surrendered or canceled.

(2) The department may deny the issuance of a gasoline distributor license or revoke a gasoline distributor license if it determines that the applicant or distributor:

(a) has violated any provision of Title 15, chapter 70, or any rule of the department relating to

1 gasoline or special fuel, or both;

2 (b) fails to provide the security required by the department;

3 (c) has had a distributor license revoked or denied by the department or another jurisdiction within

4 a 3-year period;

5 (d) is not in compliance with motor fuels laws in other jurisdictions; or

6 (e) fails to pay the gasoline license tax.

7 (3) If an application for a gasoline distributor license is denied or revoked, the applicant or

8 distributor has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.

9 ~~(2)~~(4) "Security" As used in this section "security" means:

10 (a) a bond executed by a distributor as principal with a corporate surety qualified under the laws
11 of Montana, payable to the state of Montana, and conditioned upon faithful performance of all
12 requirements of this part, including the payment of all taxes and penalties; or

13 (b) a deposit made by the distributor with the department, under the conditions ~~as~~ that the
14 department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and
15 insured by the federal deposit insurance corporation.

16 ~~(3)~~(5) Failure to obtain a gasoline distributor license as required in this section subjects the
17 distributor to the provisions of 15-70-233 allowing for the seizure, confiscation, and possible forfeiture
18 of the fuel.

19 (6) THE OWNER OF A COMMERCIAL MOTOR VEHICLE THAT IS ENGAGED IN TRANSPORTING FUEL FOR A
20 DISTRIBUTOR IS NOT SUBJECT TO THE PROVISIONS OF THIS SECTION."

21

22 **Section 2.** Section 15-70-341, MCA, is amended to read:

23 **"15-70-341. License, ~~reissuance fee~~, and security of special fuel distributors -- denial or**
24 **revocation of license -- reissuance fee.** (1) (a) ~~All~~ Each special fuel ~~distributors~~ distributor, including
25 ~~importers~~ an exporter and ~~exporters~~ importer, as those terms are defined in 15-70-301, prior to the
26 commencement of doing business, shall file:

27 (i) an application for a license with the department, on forms prescribed and furnished by the
28 department, setting forth the information that may be requested by the department; and

29 (ii) security with the department in an amount to be determined by the department.

30 (b) ~~(i) The~~ Except as provided in subsection (1)(b)(ii), the required amount of security may not

1 exceed twice the estimated amount of special fuel taxes the distributor will pay to this state each month.

2 (ii) The minimum required security for a distributor who imports or exports special fuel, or both,
3 is \$25,000.

4 (c) Upon approval of the application, the department shall issue to the distributor a nonassignable
5 license that ~~continues is~~ in force until surrendered or revoked.

6 (2) The department may deny the issuance of a special fuel distributor license or revoke a special
7 fuel distributor license if it determines that the applicant or distributor:

8 (a) has violated any provision of Title 15, chapter 70, or any rule of the department relating to
9 gasoline or special fuel, or both;

10 (b) fails to provide the security required by the department;

11 (c) has had a distributor license revoked or denied by the department or another jurisdiction within
12 a 3-year period;

13 (d) is not in compliance with motor fuels laws in other jurisdictions; or

14 (e) fails to pay the special fuel license tax.

15 (3) If an application for a special fuel distributor license is denied or revoked, the applicant or
16 distributor has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.

17 ~~(2)~~(4) If the distributor's license is surrendered or revoked, the distributor shall pay a reissuance
18 fee of \$100.

19 ~~(3)~~(5) Failure to obtain a special fuel distributor license as required in this section subjects the
20 distributor to the provisions of 15-70-357 allowing for the seizure, confiscation, and possible forfeiture
21 of the fuel.

22 ~~(4)~~(6) As used in this section, "security" means:

23 (a) a bond executed by a distributor as principal with a corporate surety qualified under the laws
24 of Montana, payable to the state of Montana, and conditioned upon faithful performance of all
25 requirements of this part, including the payment of all taxes and penalties; or

26 (b) (i) a deposit made by the distributor with the department, under the conditions that the
27 department may prescribe; or

28 (ii) certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal
29 deposit insurance corporation.

30 (7) THE OWNER OF A COMMERCIAL MOTOR VEHICLE THAT IS ENGAGED IN TRANSPORTING SPECIAL FUEL FOR A

1 DISTRIBUTOR IS NOT SUBJECT TO THE PROVISIONS OF THIS SECTION."

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3 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2001.

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